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6 Proposed Attorneys for Michael A. McConnell,
Chapter 11 Trustee
7

8 **UNITED STATES BANKRUPTCY COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
10 **NORTHERN DIVISION**
11

12 In re
13 HVI CAT CANYON, INC.,
14 Debtor.

Case No. 9:19-bk-11573-MB

Chapter 11

**NOTICE OF MOTION AND TRUSTEE'S
EMERGENCY MOTION FOR
(1) AUTHORITY TO ACCEPT A
PARTIAL PREPAYMENT OF THE
AMOUNT OWED BY CALIFORNIA
ASPHALT PRODUCTION, INC., TO THE
ESTATE, OR IN THE ALTERNATIVE
FOR AUTHORITY TO OBTAIN
"CREDIT" IN THE FORM OF SUCH
PREPAYMENT, AND (2) WAIVER OF
ANY STAY IMPOSED BY FRBP 6004(h);
AND MEMORANDUM OF POINTS AND
AUTHORITIES, DECLARATION OF TIM
SKILLMAN, AND REQUEST FOR
JUDICIAL NOTICE IN SUPPORT
THEREOF**

Date: October 25, 2019
Time: 9:00 a.m.
Place: Courtroom 303
21041 Burbank Blvd.
Woodland Hills, California

- and -

Courtroom 201
1415 State Street
Santa Barbara, California

1 **PLEASE TAKE NOTICE** that on **October 25, 2019**, at **9:00 a.m.**, in Courtroom 303 of
2 the U.S. Bankruptcy Court for the Central District of California located at 21041 Burbank
3 Boulevard, Woodland Hills, California, and by video available in Courtroom 201 of the U.S.
4 Bankruptcy Court for the Central District of California located at 1415 State Street, Santa Barbara,
5 California, Michael A. McConnell, the chapter 11 trustee (the "Trustee") for the estate of HVI Cat
6 Canyon, Inc. (the "Debtor"), will and does hereby move the Court, **on an emergency basis**, for an
7 order authorizing the Trustee to accept a partial prepayment of the amounts that will be owed by
8 one of the Debtor's affiliates, California Asphalt Production, Inc. ("CAP"), for delivery of product
9 that accrued, and continue to accrue, during the month of October 2019. If the Court deems the
10 prepayment to constitute "credit," the Trustee requests that the Court authorize the Trustee to
11 obtain such credit. The Trustee also requests that the Court waive any stay that may apply to the
12 enforcement of the Court's order. The Trustee requests that the Court enter an order substantially
13 in the form of the order attached as Exhibit "1" hereto.

14 **PLEASE TAKE FURTHER NOTICE** that this motion has been filed on an emergency
15 basis because the Trustee needs the funds to pay payroll on October 25, 2019, and to pay certain
16 other expenses on October 25 or as soon thereafter as possible.

17 **PLEASE TAKE FURTHER NOTICE** that, pursuant to LBR 9075-1, a hearing on this
18 motion is set for **October 25, 2019**, at **9:00 a.m.** In accordance with the Court's instructions given
19 to the Trustee's counsel:

- 20 • This motion has been filed on or before noon on October 24, 2019.
- 21 • Telephonic notice of the hearing on this motion will be given to counsel for the
22 following by 1:00 p.m. on October 24, 2019:
 - 23 • the Debtor;
 - 24 • the Official Committee of Unsecured Creditors (the "Committee");
 - 25 • UBS AG, London Branch ("UBS");
 - 26 • County of Santa Barbara, California ("Santa Barbara");
 - 27 • California State Lands Commission;
 - 28 • Buganko, LLC;
 - GIT, Inc. ("GIT");
 - the Office of the United States Trustee; and
 - parties that have requested special notice.

1 **PLEASE TAKE FURTHER NOTICE** that oppositions to this motion, or to the setting of
2 the hearing on this motion on an emergency basis, may be presented orally at the hearing. Parties
3 wishing to submit written oppositions must do so by no later than 9:00 a.m. on October 25, 2019.
4 If you do not have any objection to this motion, you need not take any further action.

5
6 **Summary of Relief Requested**

7 The Trustee's motion may be summarized as follows: On October 8, 2019, the Court
8 entered its most recent order authorizing the Debtor to use cash collateral (the "Cash Collateral
9 Order").¹ The order was entered with the express consent of UBS, the Debtor, the Committee,
10 GIT, and Harry E. Hagen as Treasurer-Tax Collector of the County of Santa Barbara, California.
11 One of the goals of the order was to provide for the use of cash collateral by a chapter 11 trustee if
12 the Court were to order the appointment of a trustee at an upcoming hearing. The Court did order
13 that a trustee be appointed, and Michael A. McConnell was just appointed as the chapter 11 trustee.

14 Although the Trustee has authority to use cash collateral, the Trustee discovered that the
15 estate has insufficient cash to pay payroll and related expenses that must be paid on Friday,
16 October 25, 2019. The Trustee has about \$18,000 of available cash on hand, and needs
17 approximately \$113,000 to pay employees and related expenses, including payroll taxes. The
18 Trustee also needs about \$146,000 to pay royalties that are supposed to be paid on about October
19 25, plus \$71,500 to pay other necessary expenses.

20 Given the short time frame, the Trustee is unable to borrow the necessary funds from UBS
21 or any other source. As a result, at the Trustee's request, one of the Debtor's affiliates, California
22 Asphalt Productions, Inc. ("CAP"), has agreed to partially prepay amounts that CAP is not actually
23 required to pay until November 25, 2019. CAP will prepay approximately \$332,000, which will
24 provide the Trustee the cash he needs to make the payments identified on Exhibit "2" to the

25
26
27 ¹ Docket no. 375. A copy of the Cash Collateral Order is attached as Exhibit "3" to the Request
28 for Judicial Notice.

1 Declaration of Tim Skillman. (As of the time of filing of this motion, the money had not yet been
2 received from CAP.)

3 To be clear: The October 8 order already authorizes the Trustee to use cash collateral to
4 pay these expenses. The Trustee simply needs an infusion of cash to do so. The Trustee therefore
5 seeks authority to accept CAP's partial prepayment.

6 The Trustee believes that his acceptance of the partial prepayment falls within the ordinary
7 course of the Debtor's business. However, out of an abundance of caution, the Trustee requests
8 authority, pursuant to 11 U.S.C. § 363(b) and (c), to accept the prepayment and use the funds in
9 accordance with the Cash Collateral Order.

10 The Trustee does not believe that the partial prepayment qualifies as "credit" for purposes
11 of § 364. However, if the Court deems the prepayment to constitute "credit," the Trustee requests
12 authority, pursuant to 11 U.S.C. § 364, for authority to obtain such "credit."

13 In accordance with Federal Rule of Bankruptcy Procedure 4001(c)(1)(A), the Debtor's
14 proposed form of order is attached as Exhibit "1" hereto. There is no written agreement with CAP
15 regarding its partial prepayment.

16 In accordance with Federal Rule of Bankruptcy Procedure 4001(c)(1)(B) and other
17 applicable rules, the following table summarizes the significant terms of the proposed "credit" and
18 the proposed order:²

Material Term or Type of Provision	Summary of Provision(s)	Location in Order
Amount	Appx. \$332,000	¶ 2
Interest rate	None.	N/A
Maturity date	None.	N/A
Events of default	None.	N/A
A grant of priority or a lien on property of the estate under § 364(c) or (d)	None.	N/A

28 ² Because this table is provided, the Trustee requests that the Court waive the requirement in
27 LBR 4001-2 that the Trustee file a separate *Statement Regarding Cash Collateral or Debtor in*
26 *Possession Financing*.

Material Term or Type of Provision	Summary of Provision(s)	Location in Order
The providing of adequate protection or priority for a claim that arose before the commencement of the case or the use of property of the estate or credit obtained under § 364 to make cash payments on account of the claim	None.	N/A
Cross-collateralization – i.e., clauses that secure prepetition debt by postpetition assets in which the secured party would not otherwise have a security interest by virtue of its prepetition security agreement or applicable law	None.	N/A
Roll-up – i.e., provisions deeming prepetition debt to be postpetition debt or using postpetition loans from a prepetition secured party to pay part or all of that secured party's prepetition debt, other than as provided in § 552(b)	None.	N/A
Grant a replacement lien in an amount in excess of the dollar amount of the lien on cash collateral as of the petition date	None.	N/A
A determination of the validity, enforceability, priority, or amount of a claim that arose before the commencement of the case, or of any lien security the claim	None.	N/A
A waiver or modification of Code provisions or applicable rules relating to the automatic stay	None.	N/A
Automatic relief from the automatic stay upon occurrence of certain events	None.	N/A
A waiver or modification of any entity's authority or right to file a plan, seek an extension of time in which the debtor has the exclusive right to file a plan, request the use of cash collateral under § 363(c), or request authority to obtain credit under § 364	None.	N/A
The establishment of deadlines for filing a plan of reorganization, for approval of a disclosure statement, for a hearing on confirmation, or for entry of a confirmation order	None	N/A
A waiver or modification of the applicability of nonbankruptcy law relating to the perfection of a lien on property of the estate, or on the foreclosure or other enforcement of the lien	None	N/A

Material Term or Type of Provision	Summary of Provision(s)	Location in Order
A release, waiver, or limitation on any claim or other cause of action belonging to the estate or the trustee, including any modification of the statute of limitations or other deadline to commence an action	None	N/A
The indemnification of any entity	None	N/A
A release, waiver, or limitation of any right under § 506(c)	None	N/A
The granting of any lien on any claim or cause of action arising under § 506(c)	None	N/A
The granting of a lien on any claim or cause of action arising under §§ 544, 1 545, 547, 548, 549, 553(b), 723(a), or 724(a)	None	N/A
With respect to a professional fee carve out, disparate treatment for professionals retained by a creditors' committee from that provided for the professionals retained by the debtor	None	N/A
Pay down prepetition principal owed to a creditor	None	N/A
Findings of fact on matters extraneous to the approval process	None	N/A

The Trustee's motion is based upon this notice and motion, the accompanying Memorandum of Points and Authorities, Declaration of Tim Skillman, and Request for Judicial Notice, the separate proof of telephonic notice of the hearing, the papers and pleadings on file in this case, and such other evidence as may be presented to the Court.

DATED: October 24, 2019

DANNING, GILL, DIAMOND & KOLLITZ, LLP

By: /s/ John N. Tedford, IV

JOHN N. TEDFORD, IV

Proposed Attorneys for Michael A. McConnell,
Chapter 11 Trustee

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2
3 **I.**

4 **INTRODUCTION**

5 Only three days ago, Michael A. McConnell accepted appointment as the chapter 11 trustee
6 (the "Trustee") for the estate of HVI Cat Canyon, Inc. (the "Debtor"). Based on his investigation
7 thus far, the Trustee has learned that the estate has approximately \$18,000 of available cash on
8 hand. This is substantially less than the Debtor projected to have in its most recent cash collateral
9 budget.³ The Trustee will be investigating the reasons for the shortfall.

10 In the meantime, the Trustee needs cash to make certain payments that were included in the
11 approved cash collateral budget. Especially, the Trustee needs to fund the payroll that must be paid
12 on October 25, 2019. The budgeted items that the Trustee believes he should pay on October 25,
13 or as soon thereafter as possible, are identified in Exhibit "2" to the Declaration of Tim Skillman.

14 One of the Debtor's primary sources of revenue is one of its affiliates, California Asphalt
15 Production ("CAP"). The Debtor and CAP are parties to multiple agreements, including a Waste
16 Gas Handling Agreement. Under that agreement (and possibly other agreements), CAP is required
17 to make payments to the Debtor on or before the 25th day of each month for charges that accrued
18 during the immediately preceding month. Thus, on or before November 25, 2019, CAP is required
19 to pay charges that have accrued (and are accruing) during October 2019. Based on the limited
20 investigation that the Trustee has been able to conduct thus far, the Trustee believes that the total
21 amount that will be owed by CAP for October 2019 will be \$1.5 million to \$2 million.

22 To allow the Trustee to pay the payroll and certain other budgeted items, CAP has agreed to
23 prepay a portion of the amount CAP will owe for charges accrued (and accruing) in October 2019.
24 Specifically, CAP will prepay the amount needed for the Trustee to pay the \$331,000 of expenses
25 listed in Exhibit "2" to Mr. Skillman's declaration. (As of the time of filing of this motion, the
26 money had not yet been received from CAP.)

27
28 ³ See Docket no. 375 (*Agreed Order for Consensual Use of Cash Collateral*). Exhibit "3".

1 Out of an abundance of caution, because this arrangement may not be strictly within the
2 ordinary course of the Debtor's business, the Trustee is seeking authority to accept the prepayment
3 and use the funds to pay the budgeted items consistent with the Court's prior grant of authority to
4 use cash collateral. Also out of an abundance of caution, if the Court considers this arrangement to
5 be a credit transaction, the Trustee is seeking authority to obtain the "credit" under 11 U.S.C.
6 § 364. Either way, so that the Trustee can pay the payroll and other expenses immediately, the
7 Trustee is requesting that the Court waive any applicable stay.

8
9 **II.**

10 **STATEMENT OF FACTS**

11 **A. OVERVIEW AND HISTORY OF THE DEBTOR'S BUSINESS**

12 The Debtor is a Colorado corporation authorized to conduct business in the state of
13 California. It is the owner and operator of producing oil and gas interests in California. According
14 to the Debtor, it "owns an approximately 100% working interest and an average 85% net revenue
15 interest in several oilfields in the Santa Maria Valley of Santa Barbara County, North Belridge in
16 Kern County, and Richfield East Dome Unit in Orange County."⁴

17 Prior to the Petition Date, the Debtor engaged in transactions with certain of its affiliates,
18 including CAP. The Debtor has described its transactions with CAP accordingly:

19 Debtor has multiple agreements with [CAP] pursuant to which CAP
20 agrees to purchase from Debtor: Crude, handle waste gas, process
21 BS&W Excess and/or Cold Oil and Debtor agrees to purchase Light
22 Crude and Hot Loads, as such terms are defined and described in the
operative agreements (collectively, the "CAP Agreements") annexed
hereto as Exhibit D.⁵

23 At least one of those agreements provides as follows:

24 [CAP] shall pay [the Debtor] . . . for all Waste Gas delivered
25 to [CAP] at the Point of Delivery and metered by [CAP], payable
monthly, on or before the 25th day of each month ("Due Date")

26 ⁴ Docket no. 16, pp. 1-2, ¶ 2.

27 ⁵ Docket no. 16, p. 5, ¶ 13.

1 following receipt of an invoice or such other documentation acceptable
2 to the Parties for the amounts which accrued during the immediate
preceding calendar month. . . .⁶

3 On October 23, 2019, the Trustee and his agents met with principals of the debtor (Ernesto
4 Olivares and Alex Dimitrijevic). Mr. Olivares, the Debtor's Chief Financial Officer, advised that
5 (1) no additional sum was due to the Debtor on October 25, 2019, notwithstanding that the cash
6 collateral budget projected that approximately \$1 million would be received this week,⁷ (2) the
7 absolutely necessary expenses which had to be paid on October 25, 2019 aggregate \$331,339,
8 including payroll and payroll taxes, and royalties, and (3) CAP will owe the estate for the month of
9 October 2019 between \$1.5 million and \$2 million. Whatever the amount, the Debtor's principals
10 advised that that CAP's payment is not required until November 25, 2019.

11
12 **B. THE DEBTOR'S BANKRUPTCY FILING AND THE TRUSTEE'S APPOINTMENT**

13 On July 25, 2019 (the "Petition Date"), the Debtor filed a voluntary petition for relief under
14 chapter 11 of title 11 of the United States Code (the "Code"). The case was originally filed in the
15 Southern District of New York. It was transferred to the Northern District of Texas, and then later
16 to the Central District of California.

17 The Debtor initially operated its business as a "debtor in possession," allowing it to exercise
18 substantially all rights of a trustee in the bankruptcy case. On or about October 16, 2019, the Court
19 entered its *Agreed Order Granting Motion for Appointment of a Chapter 11 Trustee*. On or about
20 October 22, 2019, the Court approved the appointment of Michael A. McConnell as the chapter 11
21 trustee in this case.

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26 ⁶ Docket no. 16-4, p. 17 of 51, ¶ 4(a).

27 ⁷ See Exhibit "3" to the Request for Judicial Notice.
28

1 **C. THE MOST RECENT ORDER AUTHORIZING USE OF CASH COLLATERAL**

2 On or about October 8, 2019, the Court entered its *Agreed Order for Consensual Use of*
3 *Cash Collateral* (the “Cash Collateral Order”).⁸ A copy of the Cash Collateral Order is attached as
4 Exhibit “3” to the Request for Judicial Notice. The Cash Collateral Order provided, in relevant
5 part, as follows:

- 6 • The Debtor was authorized to use Cash Collateral to pay ordinary course operating
7 expenses in accordance with a budget that was attached to the Cash Collateral Order
8 (the “Approved Budget”).
- 9 • Without a court order or written consent of UBS and Santa Barbara, the Debtor was
10 *not* authorized to make “any royalty payments or surface lease payments to insiders
11 or affiliates of the Debtor.” The Debtor was required to hold such payments in an
12 interest-bearing escrow or segregated account.
- 13 • Subject to certain conditions (including the consent of the Committee and Santa
14 Barbara), UBS may, by written agreement, amend the Approved Budget to extend
15 the date through which Cash Collateral may be used and to increase the amount of
16 Cash Collateral that may be used thereunder.
- 17 • “[T]he Trustee is specifically authorized to use Cash Collateral pursuant to the
18 terms” of the Cash Collateral Order.

15 **D. THE TRUSTEE’S CRITICAL NEED FOR CASH TO PAY CERTAIN ITEMS IN**
16 **THE APPROVED BUDGET, AND CAP’S AGREEMENT TO PARTIALLY**
17 **PREPAY FOR CHARGES ACCRUED (AND ACCRUING) IN OCTOBER 2019**

18 Although the Trustee has the authority to use cash collateral to pay the budgeted items, he
19 does not have the cash. In the coming weeks and months, the Trustee hopes to work with UBS and
20 others to address the Debtor’s cash flow issues. The Trustee will also investigate the reasons for
21 the significant disparity between the revenue projection in the cash collateral budget and what the
22 Debtor’s officers provided to him on October 23, 2019.

23 In the meantime, the Trustee needs cash to meet the October 25 payroll and pay certain
24 other expenses that the Trustee and his proposed CRO have identified as high-priority items. The
25 Trustee inquired whether UBS could loan the necessary funds, but it is logistically impossible for
26 UBS to agree to such a loan, and for the Trustee to file a timely motion for approval of such a loan,
27

28 ⁸ Docket no. 375 (Exhibit “3”).

1 in such a short time frame. At the Trustee's request, CAP has agreed to partially prepay amounts
2 that CAP will owe for October 2019, which would not normally be paid for another three or four
3 weeks. This will enable the Trustee to pay the necessary expenses when due.

4 To reiterate: All of the expenses that the Trustee intends to pay now were included in the
5 Approved Budget. A comparison of the Approved Budget and the list of payments that the Trustee
6 intends to make immediately using the funds received from CAP is attached as Exhibit "2" to Mr.
7 Skillman's declaration. In addition, the Trustee is not waiving rights to against any parties for the
8 shortfalls in revenues which were due on October 25, 2019 as projected in the cash collateral
9 budget.

10 11 III.

12 ARGUMENT

13 A. THE COURT SHOULD AUTHORIZE THE TRUSTEE TO ACCEPT THE 14 PARTIAL PREPAYMENT FROM CAP

15 Unless the court, on request of a party in interest and after notice and hearing, orders
16 otherwise, a chapter 11 trustee may operate a debtor's business. 11 U.S.C. § 1108. If the debtor's
17 business is authorized to be operated under § 1108, and unless the court orders otherwise, a trustee
18 may enter into transactions in the ordinary course of business, without notice or a hearing, and may
19 use property of the estate in the ordinary course of business without notice of a hearing. 11 U.S.C.
20 § 363(c)(1). However, a trustee may not use cash collateral unless each party that has an interest in
21 such cash collateral consents, or the court authorizes such use. 11 U.S.C. § 363(c)(2). If a trustee
22 proposes to enter into transactions and/or use property of the estate *outside* of the ordinary course
23 of business, he or she may do so after notice and a hearing. 11 U.S.C. § 363(b).

24 In this case, the Trustee already has authority to operate the Debtor's business. The Trustee
25 believes that his agreement to accept a partial prepayment from CAP is within the ordinary course
26 of the Debtor's business since there appears to be no question that CAP will owe the estate at least
27 \$1.5 million for October 2019. However, the Trustee recognizes that the partial payment is being
28 made by CAP before October concludes and before the customary invoice(s) and documentation is

1 provided to CAP. The Trustee also recognizes that CAP is an affiliate of the Debtor, subjecting the
2 transaction to a higher degree of scrutiny.

3 For this reason, the Trustee requests that the Court expressly authorize the Trustee to accept
4 a partial prepayment from CAP in an amount sufficient to cover the payments identified in Exhibit
5 "2" to Mr. Skillman's declaration, under the column heading "Reforecast Week 13."

6
7 **B. IF THE COURT CONSIDERS THIS A CREDIT TRANSACTION, THE COURT**
8 **SHOULD AUTHORIZE THE TRUSTEE TO OBTAIN CREDIT PURSUANT TO**
9 **11 U.S.C. § 364**

10 If the debtor's business is authorized to be operated under § 1108 and unless the court
11 orders otherwise, a trustee may obtain unsecured credit and incur unsecured debt in the ordinary
12 course of business, allowable as an administrative expense against the estate. 11 U.S.C. § 364(a).
13 After notice and a hearing, the court may authorize the trustee to obtain credit or incur unsecured
14 debt outside of the ordinary course of business. 11 U.S.C. § 364(b).

15 The Trustee does not believe that he is proposing a credit transaction. However, out of an
16 abundance of caution, if the Court concludes that the Trustee's acceptance of funds from CAP is a
17 credit transaction, the Trustee requests that it be approved and that the order provide that CAP's
18 extension of "credit" will reduce the amounts that CAP must pay the estate in the future for the
19 charges that accrue during October 2019.⁹

20 The Trustee's request will not prejudice any party in interest. The prepayment will not, in
21 any way, reduce the total amount that CAP must pay to the estate or release any claims for sums
22 actually still due or any improper setoffs. UBS's security interests (and any other parties' security
23 interests) will attach to CAP's prepayment if and to the same extent that they would attach to any
24 other receipt from CAP. The Court has already authorized cash collateral to be used in accordance
25 with the Approved Budget. Therefore, all of the parties with interests in the funds to be received

26
27 ⁹ Of course, CAP will still owe the estate for the balance of charges that accrue during October
28 2019, and its partial prepayment will not any way affect other claims that the estate and CAP may
have against each other.

1 from CAP have either consented to the Trustee's use of revenues to pay the expenses, or the Court
2 already has determined that they are adequately protected.

3
4 **C. THE COURT SHOULD WAIVE ANY STAY APPLICABLE UNDER FRBP 6004(h)**

5 Federal Rule of Bankruptcy Procedure 6004(h) provides that an order authorizing the use,
6 sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after
7 entry of the order, unless the court orders otherwise. So the Trustee may promptly pay payroll and
8 other expenses identified in Exhibit "2" to Mr. Skillman's declaration, the Trustee requests that the
9 Court's order provide that it is effective and immediately enforceable notwithstanding any potential
10 application of Rule 6004(h).

11
12 **IV.**

13 **CONCLUSION**

14 For the reasons set forth above, the Court should authorize the Trustee to accept CAP's
15 partial prepayment of the amounts that will be owed by CAP for charges that have accrued, and
16 continue to accrue, during October 2019. If the Court deems the prepayment to constitute credit,
17 the Court should authorize the Trustee to obtain such credit. So that the Trustee may immediately
18 pay necessary expenses, the Court should waive any stay that may apply to the enforcement of the
19 Court's order. The Trustee requests that the Court enter an order substantially in the form of the
20 order attached as Exhibit "1" hereto.

21
22 DATED: October 24, 2019

DANNING, GILL, DIAMOND & KOLLITZ, LLP

23
24 By: /s/ John N. Tedford, IV

25 JOHN N. TEDFORD, IV

26 Proposed Attorneys for Michael A. McConnell,
27 Chapter 11 Trustee
28

DECLARATION OF TIM SKILLMAN

I, Tim Skillman, declare and state as follows:

1. I have personal knowledge of each of the facts herein, except those set forth on information and belief and, as to those matters, I believe them to be true. If called as a witness, I could and would testify competently with respect to such facts.

2. I am a partner at CR3 Partners, LLC ("CR3"). CR3 is a national turnaround and performance improvement firm. CR3 offers advisory services and our professionals often serve as officers to assist clients in need of crisis management and other turnaround services. I have served as Chief Restructuring Officer to two companies, and as a C-level executive for other companies in need of someone to help navigate crises in and out of bankruptcy.

3. Subject to Court approval, Michael A. McConnell, the chapter 11 trustee (the "Trustee") for the estate of HVI Cat Canyon, Inc. (the "Debtor"), will be retaining CR3 in this case. I will be working as, or in a capacity similar to, a Chief Restructuring Officer.

4. On October 23, 2019, the Trustee, the Trustee's proposed general bankruptcy counsel (Eric P. Israel of Danning, Gill, Diamond & Kollitz, LLP) and I met with certain of the Debtor's representatives, including the Debtor's Chief Financial Officer, M. Ernesto Olivares. To the extent we could do so in the limited time available, we examined the financial condition of the estate and expenses that the Trustee needs to pay in the very near future. Most urgently, we discovered that payroll needs to be paid on October 25, but the estate does not (and will not) have enough cash to cover the payroll. Available cash at this time is only \$18,022.

5. The Debtor's Chief Financial Officer advised that: (1) no material additional sum was due the debtor on October 25, 2019, notwithstanding that the cash collateral budget projected \$997,550,000 would be received this week on or before that date, (2) the absolutely necessary expenses which had to be paid on October 25, 2019 aggregate \$331,339, including payroll, payroll taxes, and royalties, and (3) CAP will owe the estate for the month of October 2019 between \$1.5 million and \$2 million. I am also informed and believe that the October 25 payroll, with taxes and related expenses, will exceed \$100,000.

1 6. At the direction of the Trustee, I asked the financial advisors for UBS, AG, London
2 Branch (“UBS”) whether UBS would loan funds to the estate to cover the payroll and other priority
3 expenses. However, given the very short amount of time needed to obtain UBS’s approval and to
4 document any loan agreement, their shock at the serious shortfall of projected receipts compared
5 with the cash collateral budget, and the very short amount of time in which the Trustee would need
6 to prepare and file a motion for approval of any such agreement, borrowing the funds from UBS –
7 at least in time to meet the payroll obligations – was infeasible.

8 7. The Trustee explored other options as well. Ultimately, California Asphalt
9 Production, Inc. (“CAP”), agreed to prepay a portion of the payment it would normally make on or
10 about November 20. This is not a loan, it is a prepayment that will be credited against whatever
11 CAP owes for sales to CAP for the month of October. Based on my discussions with Mr. Olivares,
12 I am informed and believe that CAP will owe the estate \$1.5 million to \$2 million for charges that
13 accrued, and are continuing to accrue, in the month of October.

14 8. I am informed and believe that, on or about October 8, 2019, the Court entered an
15 order authorizing the use of cash collateral in accordance with a budget attached to the order (the
16 “Budget”). Based on my discussions with Mr. Olivares, I identified specific items in the Budget
17 that I believe should be paid immediately from the funds to be received from CAP.

18 9. A comparison between week 13 in the Budget and the amounts that I believe should
19 be paid immediately is attached as Exhibit “2” hereto. The amounts I believe should be paid
20 immediately are identified in the column under the heading “Reforecast Week 13.”

21 10. With respect to the line items for “Royalties” and “Escrow Royalties,” these are
22 amounts that I am told are due by October 25, 2019. In the Budget, the Debtor projected that it
23 would pay \$167,453 of “Royalties” during Week 9 and \$31,602 of “Escrow Royalties” during
24 Week 11. I am informed and believe that these payments were not made during those weeks. I
25 believe that the Trustee should pay these amounts as soon as possible to avoid potential adverse
26 consequences of not doing so.

11. With respect to the line item for “Payroll,” I am informed and believe that this line item includes amounts that, outside of bankruptcy, would be paid to the Debtor’s President, Alex Dimitrijevic, and possibly other officers or insiders. However, I am informed and believe that the Trustee does not intend to pay compensation to Mr. Dimitrijevic and/or other officers at this time until insider compensation authority is obtained.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on October 24, 2019, at Santa Maria, California.

Tim Skillman

REQUEST FOR JUDICIAL NOTICE

Michael A. McConnell, the chapter 11 trustee (the "Trustee") for the estate of HVI Cat Canyon, Inc. (the "Debtor"), requests that the Court take judicial notice of the following:

1. On July 25, 2019, the Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code.

2. The Debtor filed its petition in the Southern District of New York. The case was transferred to the Northern District of Texas, and then to the Central District of California.

3. On October 8, 2019, the Court entered its *Agreed Order for Consensual Use of Cash Collateral* (the "Cash Collateral Order"). A true and correct copy of the Cash Collateral Order is attached as Exhibit "3" hereto.

4. Initially, the debtor operated its business as a debtor in possession, allowing it to exercise substantially all rights of a trustee in the bankruptcy case.

5. On October 16, 2019, the Court entered its *Agreed Order Granting Motion for Appointment of a Chapter 11 Trustee*.

6. On or about October 22, 2019, the Court entered an order approving the appointment of Michael A. McConnell as the chapter 11 trustee for the Debtor's estate.

DATED: October 24, 2019

DANNING, GILL, DIAMOND & KOLLITZ, LLP

By: /s/ John N. Tedford, IV

JOHN N. TEDFORD, IV

Proposed Attorneys for Michael A. McConnell,
Chapter 11 Trustee

EXHIBIT "1"

1 ERIC P. ISRAEL (State Bar No. 132426)
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2 JOHN N. TEDFORD, IV (State Bar No. 205537)
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5 Facsimile: (310) 277-5735

6 Proposed attorneys for Michael A. McConnell,
Chapter 11 Trustee
7

8 **UNITED STATES BANKRUPTCY COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
10 **NORTHERN DIVISION**
11

12 In re
13 HVI CAT CANYON, INC.,
14 Debtor.

Case No. 9:19-bk-11573-MB

Chapter 11

**ORDER GRANTING TRUSTEE'S
EMERGENCY MOTION FOR
(1) AUTHORITY TO ACCEPT A
PARTIAL PREPAYMENT OF THE
AMOUNT OWED BY CALIFORNIA
ASPHALT PRODUCTION, INC., TO THE
ESTATE, OR IN THE ALTERNATIVE
FOR AUTHORITY TO OBTAIN
"CREDIT" IN THE FORM OF SUCH
PREPAYMENT, AND (2) WAIVER OF
ANY STAY IMPOSED BY FRBP 6004(h)**

Date: October 25, 2019
Time: 9:00 a.m.
Place: Courtroom 303
21041 Burbank Blvd.
Woodland Hills, California

- and -

Courtroom 201
1415 State Street
Santa Barbara, California

26
27
28 **Exhibit 1**

1 On October 25, 2019, at 9:00 a.m., the Court heard and considered the *Emergency Motion*
2 *for (1) Authority to Accept a Partial Prepayment of the Amount Owed by California Asphalt*
3 *Production, Inc., to the Estate, or in the Alternative for Authority to Obtain "Credit" in the Form*
4 *of Such Prepayment, and (2) Waiver of Any Stay Imposed by FRBP 6004(h)* (the "Motion") filed by
5 Michael A. McConnell, the chapter 11 trustee (the "Trustee") for the estate of HVI Cat Canyon,
6 Inc. (the "Debtor"), the Honorable Martin R. Barash, United States Bankruptcy Judge, presiding.
7 Eric P. Israel of Danning, Gill, Diamond & Kollitz, LLP, appeared on behalf of the Trustee; and all
8 other appearances were as noted on the record at the hearing.

9 The Court having read the Motion and its accompanying Memorandum of Points and
10 Authorities, Declaration of Tim Skillman (the "Skillman Declaration"), and Request for Judicial
11 Notice (*docket no.* ____), and the proof of telephonic notice given to parties upon which the Court
12 required the Trustee to give such notice (*docket no.* ____), having determined that cause exists to
13 conduct a hearing on the Motion on an emergency basis pursuant to Local Bankruptcy Rule 9075-
14 1, having determined that notice of the Motion and of the hearing was adequate and proper, having
15 determined that the relief sought by the Trustee is property characterized as a use of estate property
16 governed by 11 U.S.C. § 363 and not a credit transaction governed by 11 U.S.C. § 364, having
17 heard the statements of counsel at the hearing, for the reasons stated by the Court on the record at
18 the hearing, and for good cause appearing, it is

19 **ORDERED THAT:**

- 20 1. The Motion is granted.
- 21 2. Pursuant to 11 U.S.C. § 363, the Trustee is authorized to accept approximately
22 \$332,000 from California Asphalt Production, Inc. ("CAP") as a partial prepayment of the amounts
23 that will be owed by CAP for charges that have accrued, and that are continuing to accrue, during
24 October 2019.
- 25 3. In accordance with the Court's prior *Agreed Order for Consensual Use of Cash*
26 *Collateral* (the "Cash Collateral Order") (*docket no.* 375), and subject to any limitations set forth in
27 the Cash Collateral Order with respect to payments and distributions to insiders and affiliates, and
28 also subject to any limitations set forth in applicable rules and guidelines regarding compensation

1 paid to insiders, the Trustee is authorized to use the funds received from CAP to pay the expenses
2 listed in Exhibit "2" to the Skillman Declaration under the heading "Reforecast Week 13."

3 4. Nothing in this order or the Trustee's acceptance of the partial prepayment shall
4 constitute or be deemed in any way to give rise to a waiver or release by the Trustee of any rights
5 that the estate may have against any party with respect to the shortfall in receipts that the budget
6 attached to the Cash Collateral Order projected to be received on or before October 25, 2019.

7 5. The terms and conditions of this order shall be effective and immediately
8 enforceable upon its entry by the Clerk of the Court notwithstanding any potential application of
9 Federal Rule of Bankruptcy Procedure 6004(h) or any other statute or rule providing for a stay of
10 enforcement of this order and its terms.

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EXHIBIT "2"

HVI CAT CANYON INC.	Original		Reforecast	
Week 13 Budget - Reforecast	Forecast		Week 13	
Estimated Beginning Cash Balance (1)	168,507		33,800	
Cash Inflows (2)				
SMV	859,100			
Redu	61,283			
Belridge	77,167			
Total Cash Inflows	997,550		-	
Royalties (3)			(118,392)	(\$167,453) was projected for Week 9
Escrow Royalties (4)			(27,690)	(\$31,602) was projected for Week 11
Total Cash Inflows	997,550		(146,081)	
Cash Outflows				
Operating Expenses (5)				
Payroll Checks	76,000		76,000	
Payroll Taxes			27,431	\$27,431 was projected for Week 12
Garnishment & Child Supports			1,320	\$1,320 was projected for Week 12
Surface Rents				
Consultants	9,008		9,008	
Phones	2,000			
Power PG&E				
Power SoCalEdison				
Waste Management				
Water				
SouthernCalGas				
Portable Restrooms	169			
Alarms				
Cafeteria				
Copies				
Chemicals	10,000		10,000	
Pumps	25,000		25,000	
Gasoline	11,500		11,500	
Transportation	267,521			
Vacuum Trucks				
LCR	430,000			
Electricians	10,000		5,000	
Welders	5,000			
Supplies (Belts-Parts)	2,000		2,000	
Parts (Compressor, Pipe, others)	8,000		5,000	
Clean Chemical towers				
Vehicle maintenance	8,000		8,000	
Drink Water	150			
Weed abatement	5,000		5,000	
Well Analysis	3,000			
Compliance				
Fire Department	5,000			
APCD	2,000			
SBP - APCD				

Exhibit 2

SBP - P&D	119,843			
SBP - FD				
SBP - EHS				
SBP - Tax				
Escrow - Surface Rents				
Total Operating Expenses	999,191		185,258	
G&A Expenses				
Bank Charges & fees	100			
Insurances	12,418			
Backoffice & Administrative	109,000			
Total G&A	121,518			
Growth Production Capex				
SMV				
BELRIDGE				
REDU				
Total Growth Production				
Total Cash Outflows	1,120,709		331,339	
Net Cash Flow	(123,159)		(331,339)	
Estimated Ending Cash Balance	45,348		(297,539)	
(1) Estimated cumulative book bank balance in HVI's Operating, Payroll and Payroll Tax Accounts as of 10/23/19, per Ernesto Olivares. The Escrow bank account balance is not included in this estimate and, per E. Olivares, has a balance around \$40k.				
(2) Per E. Olivares, \$23.8k of collections due to HVI Cat Canyon for week 13 will be remitted to HVI Cat Canyon next week.				
(3) Royalties due by 10/25/19 per royalty schedule provided by E. Olivares.				
(4) Escrow royalties due by 10/25/19 per royalty schedule provided by E. Olivares.				
(5) Per discussions w/ Alex Dimitrijevic and Ernesto Olivares, the following Operating Expenses need to be funded in order to avoid interrupting normal operations of the Debtor.				

EXHIBIT "3"

1 O'MELVENY & MYERS LLP
Evan M. Jones (S.B. # 115827)
2 Brian M. Metcalf (S.B. # 205809)
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11 E-mail: sindelicato@omm.com

12 *Attorneys for UBS AG, London Branch*

13
14 **UNITED STATES BANKRUPTCY COURT**
15 **CENTRAL DISTRICT OF CALIFORNIA — NORTHERN DIVISION**
16

17 In re:
18 HVI CAT CANYON, INC.,
19 Debtor.

Case No. 9:19-bk-11573-MB

Chapter 11

**AGREED ORDER FOR CONSENSUAL
USE OF CASH COLLATERAL**

Telephonic Hearing

Date: October 8, 2019

Time: 11:00 a.m.

Place: Courtroom 202

21041 Burbank Boulevard

Woodland Hills, California 91367

25
26 This Agreed Order for Consensual Use of Cash Collateral is entered as of October 8, 2019
27 with the express consent of UBS AG London Branch ("UBS"), the Debtor and Debtor in Possession
28 ("Debtor"), the Official Committee of Unsecured Creditors (the "Committee"), GIT, Inc., and

Exhibit 3

1 Harry E. Hagen, as Treasurer-Tax Collector of the County of Santa Barbara, California ("Santa
2 Barbara") with respect of the following facts:

3 On October 4, 2019 the Court denied the *Debtor's Motion for Interim and Final Orders*
4 *Pursuant to 11 U.S.C. §§ 105, 361, 362 and 363 Approving Use of Cash Collateral, Providing*
5 *Adequate Protection and Setting Final Hearing Pursuant to Bankruptcy Rule 4001*[ECF No. 11]
6 (the "Cash Collateral Motion") and the *Motion of the Debtor to Surcharge Collateral Pursuant to*
7 *11 U.S.C. §§ 506(c) and 552(b)* [ECF No. 55] (the "Surcharge Motion"). The Court set for hearing
8 on October 18, 2019 any motions seeking appointment of a trustee filed in this case pursuant to a
9 schedule set forth by the Court on the record.
10

11 The parties hereto wish to provide for use of cash collateral in anticipation of that hearing
12 as well as to permit a transition period for use of cash collateral by any trustee the Court may order
13 appointed at such hearing (the "Trustee").
14

15 Based upon the evidence and pleadings adduced with regard to the Cash Collateral Motion
16 and Surcharge Motion, such use being found necessary to avoid immediate and serious harm to the
17 estate and potential harm to the public health and safety as contemplated by Bankruptcy Rule
18 4001(b), notice and opportunity for hearing being sufficient under the circumstances, and good
19 cause appearing therefore,
20

21 IT IS HEREBY ORDERED AS FOLLOWS:

22 1. Use of Cash Collateral. Debtor may use Cash Collateral, on the terms and conditions
23 set forth herein, provided that the amount used pursuant to this Order (without regard to prior orders
24 regarding cash collateral) does not exceed \$2,031,129 through October 25, 2019. To the extent the
25 Debtor holds an interest, all funds and cash investments of Debtor, including any funds on deposit
26 at any banks or other institutions as of the Petition Date, are Cash Collateral of UBS within the
27 meaning of 11 U.S.C. § 363(a). In addition, all cash proceeds of the collateral (and investments
28

1 thereof) received after the Petition Date are Cash Collateral of UBS within the meaning of 11 U.S.C.
2 § 363(a).

3 2. Compliance with the Cash Collateral Budget. Except as otherwise set forth herein,
4 Debtor is hereby authorized to use all Cash Collateral to pay ordinary course operating expenses in
5 accordance with the budget annexed hereto as **Exhibit 1** (including all terms and conditions set
6 forth therein, the "Cash Collateral Budget"), subject to a variance of ten percent (10%) of the
7 expenses set forth in the Cash Collateral Budget. To the extent amounts set forth in the Cash
8 Collateral Budget are not used in a given week, they may be spent in any subsequent week absent
9 further Order of the Court.
10

11 3. Limitations on Use of Cash Collateral. Debtor shall notify Huron Consulting Group
12 ("Huron"), via email to both mkehl@huronconsultinggroup.com and
13 azughayer@huronconsultinggroup.com, of any payments that exceed \$7,500 not less than 36 hours
14 prior to initiating such payment (a "Proposed Payment"). If Huron does not object to the Proposed
15 Payment within 36 hours by email to the Debtor at meo@greka.com and agd@greka.com, Debtor
16 may proceed to make such payment. Should Huron object to the Proposed Payment, such payment
17 shall not be made without further Order of the Court. The parties consent to judicial intervention
18 on an expedited basis to determine whether such Proposed Payment may proceed. Any payments
19 to be made under the attached Cash Collateral Budget to Santa Barbara, departments or agencies
20 of the County of Santa Barbara, and the APCD must be approved by Huron. If approved, such
21 payments shall be made timely in accordance with the attached Cash Collateral Budget. For the
22 avoidance of doubt, no payments shall be made to GIT pursuant to this Order for prepetition work
23 or claims other than reimbursement with regard to the Debtor's employees.
24

25 4. Reporting Requirements. As a condition to use of Cash Collateral, Debtor shall
26 promptly: (i) provide to UBS and Santa Barbara a variance report reasonably acceptable to UBS
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1 on a weekly basis during the period for which use of Cash Collateral is permitted for this and any
2 subsequent interim order, which shall be delivered by the Wednesday of the following week; and
3 (ii) comply with all additional reasonable requests of UBS, Santa Barbara, and their respective
4 representatives and agents.

5 5. Adequate Protection – Replacement and Additional Liens. UBS is entitled, pursuant
6 to 11 U.S.C. §§ 361 and 363(e), to adequate protection of its interests in the collateral, including
7 the Cash Collateral, for any diminution in value of its interests in the prepetition collateral,
8 including, without limitation, any such diminution resulting from use by Debtor of Cash Collateral
9 and any other collateral, and the imposition of the automatic stay pursuant to 11 U.S.C. § 362. As
10 partial adequate protection for any diminution in value of UBS's interests in the collateral from and
11 after the Petition Date, effective upon the commencement of this case and without the necessity of
12 the execution by Debtor or UBS of any mortgages, security agreements, pledge agreements,
13 financing statements or otherwise, the following replacement security interests and liens are hereby
14 granted to UBS, subject only to (i) valid and perfected non-voidable liens in existence on the
15 Petition Date or arising thereafter, and (ii) valid liens in existence on the Petition Date that are
16 perfected subsequent to the Petition Date as permitted by 11 U.S.C. § 546(b): (a) to the full extent
17 of any diminution in value of UBS's prepetition collateral, a perfected first priority senior security
18 interest in and lien upon all cash of Debtor and any investment of the funds of Debtor, whether
19 existing on the Petition Date or thereafter acquired as of the date hereof and as of the Petition Date;
20 and (b) to the full extent of any diminution in value of UBS's prepetition collateral, a perfected first
21 priority senior security interest in and lien upon all other pre- and post-petition property of Debtor,
22 whether existing on the Petition Date or thereafter acquired, including, without limitation, all
23 accounts, cash, Cash Collateral, deposit accounts, chattel paper, instruments, documents,
24 investment property, supporting obligations, customer lists, letter of credit rights, inventory,
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1 fixtures, equipment, general intangibles, goods, patents, copyrights and trademarks as well as all
2 products and proceeds of any of the foregoing and books and records relating to any of the foregoing
3 and to Debtor's business and the proceeds of all of the foregoing (collectively, the "Post-Petition
4 Collateral").

5 6. Adequate Protection for the Use of Cash Collateral – Superpriority Claim. To the
6 extent the Post-Petition Collateral granted to UBS herein does not provide adequate protection of
7 its interests in the Cash Collateral, UBS shall have a super-priority administrative expense claim
8 under Section 507(b) of the Bankruptcy Code as necessary to compensate UBS for any diminution
9 in value of its Collateral occurring as a result of Debtor's use of Cash Collateral during this Chapter
10 11 Case ("Cash Collateral Superpriority Claim"). The Cash Collateral Superpriority Claim shall
11 have priority over all administrative expenses of any kind or any subsequently filed bankruptcy
12 case under any Chapter of the Bankruptcy Code in any court of competent jurisdiction, including
13 such administrative expenses of the kinds specified in, or allowable under, Sections 105, 326, 330,
14 331, 503(b), 506(c), 507(a), or 507(b) of the Bankruptcy Code. Additionally, no: (i) costs or
15 expenses of administration which have been or may be incurred (a) in the Chapter 11 Case; (b) after
16 conversion of the Chapter 11 Case to a case proceeding under Chapter 7 of the Bankruptcy Code,
17 or (c) in any other proceeding related hereto; and/or (ii) priority claims as defined in Section 507(a)
18 of the Bankruptcy Code are, or will be, prior to or *pari passu* with the Cash Collateral Superpriority
19 Claim.
20

21 7. Perfection of Adequate Protection Liens. UBS may, but shall not be required, to file
22 or record financing statements, mortgages, notices of lien, or similar instruments in any jurisdiction
23 or take any other action in order to validate and perfect the security interests and liens granted to
24 them pursuant to this Order. If UBS shall, in their sole discretion, choose to file such financing
25 statements, mortgages, notices of lien or similar instruments or otherwise confirm perfection of
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1 such security interests and liens, the liens and security interests granted herein shall be deemed
2 perfected at the time and on the date of entry of this Order. Upon request by UBS, Debtor is
3 authorized, without the further consent of any party, to take any actions and to execute and deliver
4 such instruments as may be necessary to enable UBS to further perfect, preserve and enforce the
5 security interests and liens granted to UBS by this Order.

6
7 8. The Adequate Protection Liens granted by this Order and the Cash Collateral
8 Superpriority Claim granted by this Order shall not attach to avoidance claims of the estate or
9 proceeds thereof. For the avoidance of doubt, nothing in this Order shall prevent UBS from
10 asserting claims against or participating in such claims or proceeds under any other basis. Without
11 limiting the foregoing, this provision shall not be retroactive, such that nothing in the Order shall
12 alter or change the status of, or any limitation or agreement on, any lien or claim against such
13 avoidance actions of proceeds thereof with regard to use of collateral or Cash Collateral prior to
14 the date hereof.

15
16 9. Absent further order of the Court or written consent of UBS and Santa Barbara for
17 payments specifically designated as a royalty payment or surface lease payment to an insider or
18 affiliate, the Debtor shall not make the following payments: (i) any royalty payments or surface
19 lease payments to insiders or affiliates of the Debtor or (ii) any payment of legal fees for the Debtor
20 or any committee, but the Debtor shall hold such payments in an interest-bearing escrow or
21 segregated account. All such issues are expressly reserved for future determination. The Cash
22 Collateral Budget attached hereto includes certain items for accounting purposes only; this Order
23 does not permit payment of these items under this Order. Notwithstanding anything to the contrary,
24 Cash Collateral shall only be used to pay those items in the Cash Collateral Budget that have been
25 specifically approved by UBS and to escrow payments as set forth above. For the avoidance of
26 doubt, the Debtor has no authority to make any (i) insider or affiliate royalty payments; (ii) insider
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1 or affiliate surface lease payments; (iii) professional fee payments; or (iv) other payments which
2 are listed below the line in the Cash Collateral Budget for accounting purposes but not authorized
3 by this Order, regardless of whether any such payments listed in (i)-(iv) are included in the Cash
4 Collateral Budget.

5 10. Authorization of use of Cash Collateral pursuant to this Order shall automatically
6 terminate unless a Trustee is ordered appointed by the Court on or before October 18, 2019. For
7 the avoidance of doubt, nothing in this Order nor consent to it shall be deemed consent to or
8 appointment of a Trustee. All parties reserve their rights with regard to such issue.

9 11. By written agreement, UBS may agree to waive such termination in full or permit
10 only limited use of Cash Collateral in any manner following such event. UBS may, but is not
11 required to, by written agreement, amend the Cash Collateral Budget to extend the date through
12 which Cash Collateral may be used and to increase the amount of Cash Collateral that may be used
13 thereunder; *provided, however*, that any amendment to the Cash Collateral Budget made pursuant
14 to the authority set forth in this Order shall be subject to the following conditions and limitations:
15

16 (a) any such amendment shall not alter the nature and types of payments that were
17 authorized under this Order;

18 (b) any such amendment shall require the consent of the Committee;

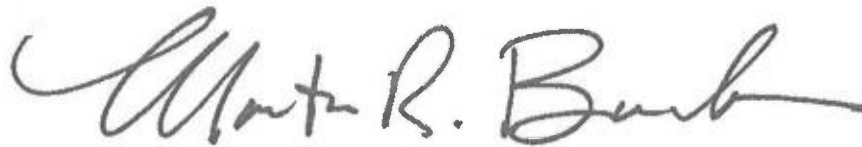
19 (c) any such amendment shall require the consent of Santa Barbara; and

20 (d) if a Trustee is ordered and appointed, any such amendment shall require the
21 consent of the Trustee, upon actual appointment of the Trustee. Upon such
22 event, the consent of the Debtor to an amendment shall not be required.
23

24 The foregoing conditions and limitations are intended to apply only to consensual changes to the
25 Cash Collateral Budget that are made pursuant to the authority of this Order.
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1 reserved with respect to whether any asset is cash collateral for any entity other than UBS and GLR,
2 LLC and thus any entitlement of such other entities to adequate protection, including without
3 limitation any superpriority claim.

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9 October 8, 2019
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HVI CAT CANYON INC. weeks 9-13 budget		Forecast Week 9 23-Sep-19	Forecast Week 10 30-Sep-19	Forecast Week 11 7-Oct-19	Forecast Week 12 14-Oct-19	Forecast Week 13 21-Oct-19	TOTAL
1	Beginning Cash Balance	346,221	208,341	390,529	55,716	168,507	346,221
2							
3	Cash Inflows (*)						
4	SMV	200,000	254,003	360,000	360,000	859,100	2,033,103
5	Redu					61,283	61,283
6	Belridge					77,167	77,167
7	Total Cash Inflows	200,000	254,003	360,000	360,000	997,550	2,171,553
8							
9	Royalties	(167,453)					(167,453)
10	Escrow Royalties(**)			(31,602)			(31,602)
11	Total Cash Inflows	32,547	254,003	328,398	360,000	997,550	1,972,498
12							
13	Cash Outflows						
14	Operating Expenses						
15							
16	Payroll Checks	73,149	483	76,000		76,000	225,632
17	Payroll Taxes		26,241		27,431		53,672
18	Garnishment & Child Supports		1,320		1,320		2,639
19	Surface Rents	41,642		22,000			63,642
20	Consultants	9,133		9,008		9,008	27,148
21	Phones		209	2,000	1,500	2,000	5,709
22	Power PG&E			248,000			248,000
23	Power SoCalEdison			25,000			25,000
24	Waste Mangement		1,487				1,487
25	Water			624	1,276		1,901
26	SouthernCalGas		25	-	65		89
27	Portable Restrooms		1,694	1,196	485	169	3,544
28	Alarms				663	-	663
29	Cafeteria				275	-	275
30	Copies				231	-	231
31	Chemicals		5,655	10,000	10,000	10,000	35,655
32	Pumps	4,424	8,237	25,000	25,000	25,000	87,661
33	Gasoline			23,000	23,000	11,500	57,500
34	Transportation					267,521	267,521
35	Vacuum Trucks						-
36	LCR					430,000	430,000
37	Electricians	2,770	3,295	10,000	10,000	10,000	36,065
38	Welders	1,300		5,000	5,000	5,000	16,300
39	Supplies (Belts-Parts)	(663)	2,997	2,000	2,000	2,000	8,334
40	Parts (Compressor, Pipe, others)		9,129	8,000	8,000	8,000	33,129
41	Clean Chemical towers				1,480	-	1,480
42	Vehicle maintenance		1,466	8,000	8,000	8,000	25,466
43	Drink Water			150	-	150	300
44	Weed abatement		5,116	10,000	5,268	5,000	25,385
45	Well Analysis			3,000	3,000	3,000	9,000
46	Compliance	8,612		40,000			48,612
47	Fire Department			5,000		5,000	10,000
48	APCD			2,000	2,000	2,000	6,000
49	SBP - APCD (****)			40,000	111,115		151,115
50	SBP - P&D (****)			40,000		119,843	159,843
51	SBP - FD (****)			16,440			16,440
52	SBP - EHS (****)			10,475			10,475
53	SBP - Tax (****)			1,300			1,300
54	Escrow - Surface Rents(**)			7,500			7,500
55	Total Operating Expenses	140,367	67,354	650,693	247,109	999,191	2,104,714
56							
57	G&A Expenses						
58							

59	Bank Charges & fees			100	100	100	300
60	Insurance			12,418		12,418	24,836
61	Backoffice & Administrative (***)	30,061	4,460			109,000	143,521
62	Total G&A	30,061	4,460	12,518	100	121,518	168,657
63							
64	Growth Production Capex						
65	SMV						-
66	BELRIDGE						-
67	REDU						-
68							
69	Total Growth Production	-	-	-	-	-	-
70							
71	Total Cash Outflows	170,427	71,814	663,211	247,209	1,120,709	2,273,371
72							
73	Net Cash Flow	(137,880)	182,189	(334,813)	112,791	(123,159)	(300,873)
74							
75	Ending Cash Balance	208,341	390,529	55,716	168,507	45,348	45,348
76							
(*)Forecast dependent on actual delivered barrels and price							
(**) Escrow of funds as directed under Interim Cash Collateral Order							
(***) Only payments for reimbursement of HVI employee expenses approved under the Cash Collateral Order							
(****) Payments to SBA authorities accelerated from original budget proposal							

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is 1901 Avenue of the Stars, Suite 450, Los Angeles, CA 90067-6006.

A true and correct copy of the foregoing document entitled (*specify*): NOTICE OF MOTION AND TRUSTEE'S EMERGENCY MOTION FOR (1) AUTHORITY TO ACCEPT A PARTIAL PREPAYMENT OF THE AMOUNT OWED BY CALIFORNIA ASPHALT PRODUCTION, INC., TO THE ESTATE, OR IN THE ALTERNATIVE FOR AUTHORITY TO OBTAIN "CREDIT" IN THE FORM OF SUCH PREPAYMENT, AND (2) WAIVER OF ANY STAY IMPOSED BY FRBP 6004(h); AND MEMORANDUM OF POINTS AND AUTHORITIES, DECLARATION OF TIME SKILLMAN, AND REQUEST FOR JUDICIAL NOTICE IN SUPPORT THEREOF will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) October 24, 2019 I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page.

2. SERVED BY UNITED STATES MAIL:

On (*date*) October 24, 2019, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page.

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) October 24, 2019, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Via Messenger: ProLegal – 10/24/19

The Honorable Martin R. Barash
U.S. Bankruptcy Court, Courtroom 303
Bin on 1st Floor outside entry to Intake Section
21041 Burbank Blvd.
Woodland Hills, CA 91367

Via FedEx Priority Overnight

Debtor
HVI Cat Canyon, Inc.,
2617 Clark Avenue
Santa Maria, CA 95454

☐ Service information continued on attached page.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

October 24, 2019

Date

Patricia Morris

Printed Name

/s/ Patricia Morris

Signature

ADDITIONAL SERVICE INFORMATION (if needed):

1. SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF")

- Alan H Katz on behalf of Interested Party CTS Properties, Ltd. akatz@lockelord.com
- Alicia Clough on behalf of Creditor California State Lands Commission
aclough@loeb.com, mnielson@loeb.com, ladocket@loeb.com
- Brian D Fittipaldi on behalf of U.S. Trustee United States Trustee
brian.fittipaldi@usdoj.gov
- Brian L Holman on behalf of Creditor Bradley Land Company b.holman@musickeeler.com
- Brian M Metcalf on behalf of Interested Party UBS AG, London Branch
bmetcalf@omm.com
- Christopher D Sullivan on behalf of Creditor Diamond McCarthy LLP
csullivan@diamondmccarthy.com,
mdomer@diamondmccarthy.com; kmartinez@diamondmccarthy.com
- Daniel A Solitro on behalf of Interested Party CTS Properties, Ltd.
dsolitro@lockelord.com, ataylor2@lockelord.com
- Darren L Patrick on behalf of Interested Party UBS AG, London Branch
dpatrick@omm.com, darren-patrick-1373@ecf.pacerpro.com
- David L Osias on behalf of Creditor Allen Matkins Leck Gamble Mallory & Natsis LLP
dosias@allenmatkins.com, bcrfilings@allenmatkins.com, kdemorest@allenmatkins.com,
csandoval@allenmatkins.com
- Don Fisher on behalf of Interested Party Interested Party dfisher@ptwww.com,
tblack@ptwww.com
- Emily Young on behalf of Creditor Epiq Corporate Restructuring, LLC Claims Agent
pacerteam@gardencitygroup.com, rjacobs@ecf.epiqsystems.com; ECFInbox@epiqsystems.com
- Fred Whitaker on behalf of Interested Party Eller Family Trust
lshertzer@cwlawyers.com
- Gisele M Goetz on behalf of Interested Party Courtesy NEF gmgoetz@hbsb.com,
ggoetz@collegesoflaw.edu
- H Alexander Fisch on behalf of Interested Party California Regional Water Quality
Control Board, Central Coast Alex.Fisch@doj.ca.gov
- H Alexander Fisch on behalf of Interested Party California Department of Fish &
Wildlife Alex.Fisch@doj.ca.gov
- Ira S Greene on behalf of Interested Party CTS Properties, Ltd.
Ira.Greene@lockelord.com
- Jeannie Kim on behalf of Interested Party Pacific Gas and Electric Company
jkim@friedmanspring.com
- Jeffrey N Pomerantz on behalf of Creditor Committee Official Committee of Unsecured
Creditors jpomerantz@pszjlaw.com
- Jennifer Taylor on behalf of Interested Party UBS AG, London Branch jtaylor@omm.com
- John C Keith on behalf of Creditor California State Lands Commission
john.keith@doj.ca.gov
- Karen L Grant on behalf of Creditor BUGANKO, LLC kgrant@silcom.com
- Karl J Fingerhood on behalf of Interested Party United States of America on behalf
of USEPA and US Coast Guard karl.fingerhood@usdoj.gov, efile_ees.enrd@usdoj.gov
- Marc S Cohen on behalf of Creditor California State Lands Commission
mscohen@loeb.com, klyles@loeb.com
- Matthew C. Heyn on behalf of Creditor Department of Conservation, Division of Oil,
Gas and Geothermal Resources Matthew.Heyn@doj.ca.gov, mcheyn@outlook.com
- Michael L Moskowitz on behalf of Debtor HVI Cat Canyon, Inc. mlm@weltmosk.com,
jg@weltmosk.com; aw@weltmosk.com
- Mitchell E Rishe on behalf of Creditor California Department of Conservation,
Division of Oil, Gas & Geothermal Resources mitchell.rishe@doj.ca.gov

- Mitchell E Rishe on behalf of Creditor Department of Conservation, Division of Oil, Gas and Geothermal Resources mitchell.rishe@doj.ca.gov
- Patricia B Tomasco on behalf of Creditor GIT, Inc. pattytomasco@quinnemanuel.com, barbarahowell@quinnemanuel.com; cristinagreen@quinnemanuel.com
- Razmig Izakelian on behalf of Creditor GIT, Inc. razmigizakelian@quinnemanuel.com
- Ross Spence on behalf of Interested Party Santa Barbara Air Pollution Control District ross@snowspencelaw.com, janissherrill@snowspencelaw.com; donnasutton@snowspencelaw.com; brittanyDecoteau@snowspencelaw.com
- Ross Spence on behalf of Interested Party County of Santa Barbara, California ross@snowspencelaw.com, janissherrill@snowspencelaw.com; donnasutton@snowspencelaw.com; brittanyDecoteau@snowspencelaw.com
- Ross Spence on behalf of Interested Party Harry E. Hagen, as Treasurer-Tax Collector of the County of Santa Barbara, California ross@snowspencelaw.com, janissherrill@snowspencelaw.com; donnasutton@snowspencelaw.com; brittanyDecoteau@snowspencelaw.com
- Salina R Thomas on behalf of Interested Party Courtesy NEF bankruptcy@co.kern.ca.us
- Salina R Thomas on behalf of Interested Party Kern County Treasurer Tax Collector bankruptcy@co.kern.ca.us
- Todd C. Ringstad on behalf of Interested Party Interested Party becky@ringstadlaw.com, arlene@ringstadlaw.com
- William C Beall on behalf of Creditor GLR, LLC will@beallandburkhardt.com, carissa@beallandburkhardt.com